IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6900 of 2007()

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CRIME NO.733/07 OF NARAKKAL POLICE STATION

PETITIONERS/ACCUSED:

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1. MUJEEB M.K., AGED 29,
   S/O. KUNJUMARAKAR, MUNDAKAPADATH HOUSE,
   CHERANELLUR P.O., COCHIN-34.

2. JAMEELA, AGED 46,
   W/O. KUNJUMARAKAR, MUNDAKAPADATH HOUSE,
   CHERANELLUR P.O., COCHIN-34.

3. KUNJUMARAKAR, AGED 52,
   S/O. IBRAHIM, MUNDAKAPADATH HOUSE,
   CHERANELLUR P.O., COCHIN-34.

4. SAIFUDEEN, AGED 40,
   S/O. HABEEB MUHAMMED, MUNDAKAPADATH HOUSE,
   CHERANELLUR P.O., COCHIN-34.

5. MUNEER, AGED 26,
   S/O. KUNJUMARAKAR, MUNDAKAPADATH HOUSE,
   CHERANELLUR P.O., COCHIN-34.

6. MUNEERA, AGED 21,
   W/O. SIDHIQUE, ERUMAKKULAM HOUSE,
   KAKKANADU P.O., COCHIN-30.

BY ADV. SRI.K.I.ABDUL RASHEED

RESPONDENTS: COMPLAINANT:

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1. STATE OF KERALA,
   REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   NARAKKAL POLICE STATION, NARAKKAL.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**B.A. No. 6900 OF 2007**

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**Dated this the 14th day of November, 2007**

**ORDER**

Application for anticipatory bail. The petitioners are the husband of the de facto complainant and his relatives. The marriage took place on 20/5/04. One child is born in the wed-lock. The crime is registered on the basis of a private complaint filed by the de facto complainant and referred to the police by the learned Magistrate under Sec.156(3) of the Cr.P.C. It is alleged that from 21/8/04 to 24/2/07 the petitioner was guilty of matrimonial cruelty of the culpable variety punishable under Sec.498A of the IPC against the de facto complainant. She lodged a complaint at long last on 12/9/07. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that

there is some strain in the matrimonial tie and such strain is prompting the de facto complainant to make exaggerated and vexatious allegations against the petitioners. Anticipatory bail may, in these circumstances, be granted to the petitioners subject to any appropriate conditions to be imposed in the interests of a fair, efficient and expeditious investigation, submits the learned counsel for the petitioners.

3. The learned Public Prosecutor does not oppose the application. I am satisfied, in the facts and circumstances of this case, that the petitioners can be granted anticipatory bail. In coming to this conclusion, I take note of the reality that the arrest and incarceration of the petitioners is likely to mar the matrimonial tie beyond repair. Appropriate conditions can, of course, be imposed. I further note that the victim has not suffered any external injury as a result in the alleged cruelty inflicted on her. The 6th petitioner is in advanced stage of pregnancy, submits the learned counsel for the petitioners.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P. C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 21/11/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) All petitioners except the 6th petitioner shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 22/11/07 and 23/11/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so. The Investigating Officer shall be at liberty to question the 6th petitioner at her residence after complying with legal formalities.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law

as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 21/11/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 21/11/07.

**Sd/-**
**(R. BASANT, JUDGE)**

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P.S. to Judge